UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CHARLES STROUCHLER, SARA CAMPOS, by her next friend ANA SIMARD, and AUDREY ROKAW, by her next friend NINA PINSKY, individually and on behalf of all others similarly situated,

Plaintiffs,

-against-

NIRAV SHAH, M.D., as Commissioner of the New York State Department of Health, and ELIZABETH BERLIN, as Executive Deputy Commissioner of the New York State Office of Temporary and Disability Assistance, and ROBERT DOAR, as Administrator of the New York City Human Resources Administration/Department of Social Services,

Defendants.

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NOTICE OF MOTION FOR PRELIMINARY INJUNCTION

Docket No. 12 CV 3216 (SAS)

PLEASE TAKE NOTICE that upon the annexed declarations of LESLIE SALZMAN, dated May 10, 2012; VALERIE BOGART, dated May 9, 2012; NINA KEILIN, dated May 10, 2012; and RANDAL S. JEFFREY, dated May 14, 2012 and their attached exhibits; and the accompanying Memorandum of Law; and upon all the papers filed and proceedings had herein, the undersigned will move this Court at the United States Courthouse, Room 15C , 500 Pearl Street, New York, New York, on the 26th day of July, 2012 at 10:00 a.m. or as soon thereafter as counsel can be heard for an Order:

1. Granting a Preliminary Injunction, pursuant to Rule 65 of the Federal Rules of Civil Procedure, enjoining the City and State Defendants from reducing or terminating split-shift home care services to those New York City Medicaid recipients currently receiving these services; and further

2. Granting a Preliminary Injunction reinstating split-shift services to any New York City Medicaid recipient whose split-shift home care has been reduced or terminated since January 1, 2011, and further

3. Enjoining enforcement of 18 N.Y.C.R.R. § 5-5.14(a)(3) insofar is it denies split-shift home care to individuals who have a medical need for frequent night-time assistance from another person to maintain their health and safety at home, but whose needs include turning or repositioning (or other medical need besides feeding, ambulating, transferring or toileting), or whose needs for assistance with tasks are deemed to be "predictable or capable of scheduling," or who are deemed to need only "some" assistance, even though they cannot perform the task safely on their own.

DATED: New York, New York
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TOBY GOLICK [TG 5365]
LESLIE SALZMAN
CARDOZO BET TZEDEK LEGAL
SERVICES
55 Fifth Ave., 11th Floor
New York, New York 10003
(212) 790-0240

YISROEL SCHULMAN
BEN TAYLOR
NEW YORK LEGAL ASSISTANCE GROUP
7 Hanover Square, 18th Floor
New York, NY 10004
212-613-5000

DONNA DOUGHERTY
JASA/LEGAL SERVICES FOR
THE ELDERLY IN QUEENS
97-77 Queens Blvd, Suite 600
Rego Park, New York 11374
(718) 275-5352

Attorneys for Plaintiffs